

REMARKS

Claims 1-8 are all the claims pending in the present application. In summary, the Examiner maintains the same rejections set forth in the previous Office Action, and adds a few new arguments in the present Office Action. Specifically, claims 1-6 and 8 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takei et al. (US Patent No. 5, 785, 024) in view of Ito et al. (US Patent Application Publication No. 2002/0139873) and Freyn et al. (US Patent No. 4,203,402). Claim 7 remains rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takei, Ito and Freyn, and further in view of Takahashi et al. (US Patent No. 6, 269,798).

§103(a) Rejections (Takei/Ito/Freyn) - Claims 1-6 and 8

With respect to independent claim 1, it was previously argued that none of the applied references, either alone or in combination, teaches or suggest the unique combination of limitations set forth in claim 1, including at least, “a resin flat surface portion of a pre-determined configuration formed on an outer peripheral surface of a resin portion...” and “wherein the constraining portion of the retainer... is engaged with the resin flat surface portion to thereby restrict rotation of the fuel injection valve around an axis, “ as recited in claim 1. Specifically, it was previously argued that none of the applied references teaches or suggests a component that corresponds to the claimed resin flat surface portion or that a constraining portion of a retainer is engaged therewith. In response, the Examiner alleges:

...Applicant has now claimed that the flat surfaces are surfaces formed on the resin area of the injector. This does not really change the rejection since it would have been obvious to cut or mold such surfaces on the resin area if the injector of Ito were used instead of the Takei injector. One of ordinary skill in the art would

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have known that this was necessary to form the flat surface regardless of the material used for the exterior of the injector.

In response, Applicant submits that the Examiner has obviously utilized impermissible hindsight reasoning in concluding that one of ordinary skill in the art would have known that it was necessary to form a flat surface regardless of the material used for the exterior of the injector. Nowhere does the Examiner point out components that allegedly correspond to the claimed resin flat surface portion, and nowhere does the Examiner show a constraining portion of a retainer that engages with the claimed resin flat surface portion. Absent such showing by the prior art references, and since the Examiner lacks proof that one of ordinary skill in the art would have achieved the above-quoted features, Applicant submits that the unique combination of features set forth in claim 1 render this claim patentably distinguishable over the applied references, either alone or in combination.

Applicant submits that dependent claims 2, 3, 5, 6, and 8 are patentable at least by virtue of their respective indirect or direct dependencies from independent claim 1.

Further, with respect to claim 4, it was previously argued that the applied references do not teach or suggest at least, "wherein the retainer is formed of an elastic material," as recited in claim 4. Specifically, it was argued that the C-shaped clamp of Takei is metal and therefore it is not considered to be formed of an elastic material. In response, the Examiner alleges:

...as also noted in the rejection, almost any metal is somewhat elastic and the reference does not say that the C-clamp would be tightened beyond its elastic limit. Furthermore, the claim merely requires that the retainer be "formed" of an elastic material. There is no requirement that the material not be subjected to forces which would exceed its elastic limit.

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In response, Applicant maintains that the C-shaped clamp of Takei is not formed of elastic material, and that one skilled in the art would not consider the C-shape clamp of Takei to be formed of elastic material.

Further, with respect to claim 8, the Examiner alleges:

Finally, the use of a resin-type injector such as the one taught by Ito normally means that the injector is a low pressure non-diesel system and such a system would allow for the use of a C-shaped clamp which was not made of metal. This is true because the pressure needed to seal the injector in place is less and thus a weaker material would have been suitable.

In response, Applicant submits that the Examiner is utilizing impermissible hindsight reasoning and speculation in making his conclusions. That is, the C-shaped clamp is clearly described in Takei as a metal clamp. The Examiner has determined that one skilled in the art would have made a C-shaped clamp that was NOT made of metal, simply in view of the present invention. There is no mention of such a feature in the applied references. Even if, *arguendo*, the pressure needed to seal an injector in place is less, there is no specific teaching or suggestion that a C-shaped clamp would not be made of metal. One skilled in the art could certainly use a metal C-shaped clamp in instances where the pressure needed to seal an injector is less than usual, and it does not necessarily follow that a non-metal C-shaped clamp would be used.

Therefore, at least based on the foregoing, Applicant submits that claims 1-6 and 8 are patentably distinguishable over the applied references, either taken alone or combination.

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§103(a) Rejections (Takei/Ito/Freyn/Takahashi) - Claim 7

Applicant submits that claim 7 is patentable at least by virtue of its indirect dependency from independent claim 1. Specifically, Takahashi does not make up for the deficiencies of the other applied references.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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